

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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ROBERT S. NELSON,

Plaintiff,

Civ. Case No.: 9507-07
(RJS)

- against -

METRO FUEL OIL CORPORATION,

ANSWER

Defendant.

(ECF Filed)

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**METRO FUEL OIL CORPORATION'S ANSWER
TO COMPLAINT OF ROBERT S. NELSON**

By way of answer to the Complaint of Robert S. Nelson ("Plaintiff"), Metro Fuel Oil Corporation (hereafter "Metro"), by and through its counsel, states as follows:

1. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.
2. Metro admits the allegations contained in paragraph 2 of the Complaint.
3. Metro admits the allegations contained in paragraph 3 of the Complaint.
4. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.
5. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.

6. Metro admits the allegations contained in paragraph 6 of the Complaint and adds that those suits are currently pending.

7. Metro denies the allegations contained in paragraph 7 of the Complaint.

8. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint, but leaves the Plaintiff to his proofs.

9. Metro denies the allegations contained in paragraph 9 of the Complaint.

10. Metro denies the allegations contained in paragraph 10 of the Complaint.

11. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint, but leaves the Plaintiff to his proofs.

12. Metro denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint.

13. Metro denies the allegations contained in paragraph 13 of the Complaint.

AS AND FOR A FIRST CAUSE OF ACTION

14. Metro restates and realleges the responses set forth in paragraphs 1-13 above, as if set forth herein at length.

15. Metro denies the allegations contained in paragraph 15 of the Complaint.

16. Metro denies the allegations contained in paragraph 16 of the Complaint.

17. Metro denies the allegations contained in paragraph 17 of the Complaint.

AS AND FOR A SECOND CAUSE OF ACTION

18. Metro restates and realleges the responses set forth in paragraphs 1-17 above, as if set forth herein at length.

19. Metro denies the allegations contained in paragraph 19 of the Complaint.

20. Metro denies the allegations contained in paragraph 20 of the Complaint.

21. Metro denies the allegations contained in paragraph 21 of the Complaint.

22. Metro denies the allegations contained in paragraph 22 of the Complaint.

AS AND FOR A THIRD CAUSE OF ACTION

23. Metro restates and realleges the responses set forth in paragraphs 1-22 above, as if set forth herein at length.

24. Metro denies the allegations contained in paragraph 24 of the Complaint.

25. Metro denies the allegations contained in paragraph 25 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because he has not suffered any injury, directly or indirectly, as a result of the matters alleged in the Complaint.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's purported claims are barred by the equitable doctrines of estoppel, waiver, acquiescence, ratification and the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to join as parties persons necessary for, and who are indispensable to, a just and complete adjudication of this matter.

FIFTH AFFIRMATIVE DEFENSE

No action and/or omission of Metro was the actual or proximate cause of any damages allegedly suffered by the Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

Any damages suffered by the Plaintiff were caused by activities by third parties over whom Metro had no reasonable control.

RESERVATION OF DEFENSES

Metro reserves the right to interpose and assert such further and additional defenses which may arise in the course of discovery or at trial.

WHEREFORE, Metro respectfully requests that this Court enter judgment:

- (a) dismiss all claims against Metro with prejudice;
- (b) award Metro costs and attorneys' fees; and
- (c) grant such further relief as the Court deems proper.

CALO AGOSTINO, P.C.

Dated: November 16, 2007

By: /s/ Anthony F. Valente
Anthony F. Valente
14 Washington Place
Hackensack, New Jersey 07601
(201) 488-5400 Ext. 105
Attorneys for Defendant
Metro Fuel Oil Corporation